

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

FILED 14

KATHLEEN D. RAY,)
Plaintiff,)
vs.)
DONNA E. SHALALA,)
Secretary of)
Health & Human Services,)
Defendant.)

No. CIV 94-078-S

DEC 8 1994
WILLIAM B. GUTHRIE
Clerk, U.S. District Court
Deputy Clerk

FINDINGS AND RECOMMENDATION

This is an action brought by the plaintiff, Kathleen D. Ray, pursuant to §205(g) of the Social Security Act, 42 U.S.C. §405(g), to obtain judicial review of the final determination of the Secretary of Health and Human Services denying Plaintiff's claim for supplemental security income benefits.

BACKGROUND

Plaintiff was 51 years of age at the time of the administrative hearing (Tr. 60). Her testimony establishes that she has completed only the 9th or 10th grade (Tr. 64). Plaintiff alleged she has been unable to perform any work activity due to high blood pressure, depression, and anxiety. Plaintiff last worked as a provider.

Plaintiff filed her initial application for Social Security Disability benefits on February 20, 1991 (Tr. 88-91, 95-98). Plaintiff's application was denied both initially and upon reconsideration. Plaintiff requested a hearing de novo before an Administrative Law Judge (ALJ) (Tr. 107-108). Plaintiff appeared at the hearing which was held March 1, 1993 (Tr. 54-87). The ALJ issued a decision that Plaintiff was not entitled to disability benefits (Tr. 19-47). The Appeals Council denied Plaintiff's

request for review on December 8, 1993 (Tr. 4-5). The decision of the ALJ, therefore, became the final decision of the Secretary from which Plaintiff appeals.

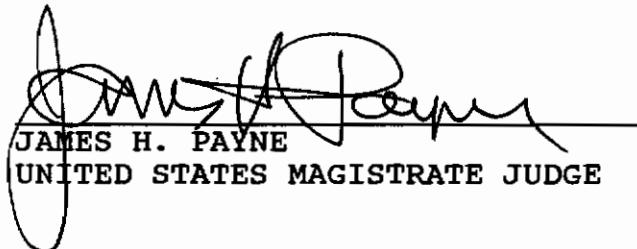
The court, in its review, has been granted power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying or reversing the decision of the Secretary, with or without remanding the case for a rehearing. The findings of the Secretary as to any fact, if supported by substantial evidence, shall be conclusive. In this action, Plaintiff alleges the record does not support the determination of the Secretary by substantial evidence. Based upon the evidence which indicates plaintiff's severe limitations, the plaintiff asserts she meets the Listing of Impairments.

The Magistrate Judge finds there is good cause pursuant to the fourth sentence of 42 U.S.C. §405(g) to remand this matter to the Secretary for the purpose of obtaining updated reports of all the claimant's impairments from her treating sources, if available, to offer the claimant a supplemental hearing, and to consider further vocational expert testimony. Accordingly, the Magistrate Judge recommends this case be reversed and remanded to the Secretary of Health and Human Services for further proceedings in compliance with these Findings.

Parties are given ten (10) days from the date of service on counsel to file with the Clerk of the Court any objections, with supporting brief. Failure to object to the Findings and Recommendation within ten (10) days will preclude appellate review of the judgment of the district court based on such findings. 28 U.S.C.

§636(b)(1), Federal Rules of Civil Procedure 72, 6(a) and 6(e), and Local Rule 32(d).

DATED this 8TH day of December 1994.



JAMES H. PAYNE
UNITED STATES MAGISTRATE JUDGE